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Held at Headquarters, New York,
on Friday, 11 July 1997, at 3 p.m.

Chairperson: Ms. KHAN

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION (continued)

Initial and second periodic reports of Luxembourg (continued) (CEDAW/C/LUX/1 and CEDAW/C/LUX/2)

1. At the invitation of the Chairperson, Ms. Ecker and Mrs. Mulheims (Luxembourg) took places at the Committee table.

2. Mrs. MULHEIM (Luxembourg), in reply to questions put by members of the Committee, said that measures were being taken to withdraw the two reservations which the Government had entered when ratifying the Convention on the Elimination of All Forms of Discrimination against Women. She agreed that the system was contrary to the principle of equality of men and women because, in the case of legitimate children, only the father's surname could be transmitted. Furthermore, it penalized married couples, as unmarried parents could choose the surname of their child or children.

3. The Ministry for the Advancement of Women was taking steps to distribute a handbook on the Convention among young people to help change attitudes and to make girls and young women aware of their rights in all spheres. The policy to promote women's rights also sought to stimulate discussion on the stereotyped roles traditionally assigned to women and men; in particular, that of women within the family.

4. Mainstreaming was a priority of the Plan of Action 2000. The current spheres of activity were education, training, employment, development cooperation, youth and sustainable development. The major objective of the Beijing Platform for Action was the empowerment of women. The Plan of Action 2000 had the same objective and established short-term, medium-term and long-term actions. It should be considered an instrument to integrate the principle of equality into all policies, including those pertaining to the economy, finance and health. All dossiers submitted to the Cabinet were transmitted to the recently formed Ministry for the Advancement of Women, whose job it was to integrate a woman's perspective into the dossiers and also to analyse the impact on the status of women of proposed laws and actions.

Article 1

5. Ms. ECKER (Luxembourg), referring to the status of women within the European Union, said that the Government had endeavoured to have the principle of equal opportunities included in the revisions to the Treaty of Maastricht. Despite its efforts, the Treaty of Amsterdam signed on 19 June 1997 only partially reflected its demands. However, the issues of equal opportunities and basic rights for women would be reviewed within the framework of the expansion of the European Union and in the discussions on employment. Moreover, the Prime Minister, who currently held the Presidency of the Council of Ministers of the European Union on behalf of Luxembourg, would be informed of the Committee's

request to the effect that the Convention should be widely publicized within the countries of the Union and should form part of the basic body of legal principles uniting them.

Article 2

6. Compulsory military service had been abolished in 1967. Prior to 1986, women had been barred from volunteering for military service and hence had been excluded not only from following a military career but also from access to certain categories of employment reserved for army volunteers. That situation had been reversed in 1986 by an Act which modified the organization of the military.

7. In answer to the Committee's questions on demographic statistics, she referred members to a publication included in the annexes. As to why there were so few women in the workplace, she agreed that there was a contradiction in the initial report which needed to be resolved. Women tended to abandon the workplace to take care of their children, as salaries in Luxembourg were high enough to allow a couple to subsist on one salary.

8. Luxembourg's next report would endeavour to reply to the question of the valuation of unpaid work. At present, the Ministry's main objective was to build awareness of the principle of equality of the sexes, and it was conducting a project aimed at pre-school children, parents and teachers and at instructors, union officials and employers.

9. Grounds for divorce included serious abuse, physical cruelty or bodily harm inflicted by one spouse on the other. Although adultery, in itself, was no longer an automatic ground for divorce, it could still be viewed as an offence which made marital relations intolerable.

10. The Luxembourg Civil Code provided that each spouse should contribute to the expenses relating to the marriage, as explained in the initial report. If one of the spouses contributed by domestic work or was incapacitated, the other was obliged to support the household financially. A couple could also decide on each spouse's contribution by drawing up a prenuptial agreement.

11. The Government of Luxembourg had committed itself to reflecting the principle of equality of men and women in the Constitution and it was probable that that change would be made during the current review of the Constitution.

12. Treaties had precedence over domestic law, and the Luxembourg courts considered it normal to apply them directly. The Luxembourg Court of Cassation had declared that the provisions of the Convention were self-executing and mandatory. However, the direct application of certain articles of an international treaty or convention could be refused by the courts if certain provisions were not sufficiently precise and comprehensive. The Convention had been regularly endorsed and disseminated in Luxembourg and was therefore considered to be in effect, subject to the reservation she had just mentioned, but it had rarely been cited in the Luxembourg courts.

13. Men and women from outside the European Union and refugees, as defined by the Geneva Convention, had the right to work, subject to obtaining a work permit from the Ministry of Labour. Such persons had the right to collect unemployment benefits even if their work permits had expired. They were also eligible to receive legal aid benefits for asylum and residence procedures.

14. Women could bring cases of indirect discrimination before the courts. There was, however, no legal definition of indirect discrimination in Luxembourg law, although the 1991 Act regarding equality of treatment of men and women specified that the principle of equality implied the absence of all gender-related discrimination. The courts had said very little regarding indirect discrimination; in the few cases where they had made a pronouncement, they had reiterated the definition of indirect discrimination of the Court of Justice of the European Community.

15. As Luxembourg had no association of female lawyers, the Association of University Women examined important legal questions. Legal assistance had been modified in 1995 by an Act which stipulated that all persons with insufficient means had the right to legal assistance in order to defend their interests. In proceedings relating to discrimination in labour laws, the unions provided legal assistance for their members.

Article 3

16. Referring to the Interministerial Committee on Gender Equality, she said that it consisted of one full and one alternate member from each ministerial department, it was presided over by the Ministry for the Advancement of Women, and its members were civil servants. The Committee did not have a fixed budget and the Ministry for the Advancement of Women financed special activities. The Committee was responsible for monitoring and following up the Plan of Action 2000.

17. Providing information on the status of relevant draft legislation, she said that a family leave bill which had been introduced was still under consideration and that the European Union had not yet elaborated a parental leave bill. Bills to combat sexual harassment in the workplace, one of which had been drafted by the Ministry for the Advancement of Women, were still being discussed.

18. Although no law expressly provided for the punishment of acts of violence committed against women, physical or sexual violence against women, whether perpetrated within or outside the family, was punishable under criminal law. Theoretically, such legislation provided adequate recourse in cases of spousal violence. Under her country's criminal law, it was necessary to prove the guilt of the alleged perpetrator of a crime, and in many instances a woman who was the victim of sexual violence - and often the sole witness to the crime - declined to testify. Victims were heavily influenced by the attitude of the police and law enforcement personnel, and priority therefore was being given to providing such personnel with special training and guidelines and to mounting public information campaigns. Her Government was considering legislative action to further enhance the effectiveness of the criminal justice system in that regard.

Article 4

19. Mrs. MULHEIMS (Luxembourg), commenting on the request for information on affirmative action taken to encourage the participation of women in political life, said that 55 of the 118 communes in her country had designated an equality representative, and 6 communes had established a consultative committee on equality. The Ministry for the Advancement of Women financed training activities organized by the National Council of Women of Luxembourg for those delegates and committee members. The three major political parties had subsections specifically devoted to women, and women were represented in all party organs. Some parties were considering introducing quotas for electoral rolls in the next election.

20. As to affirmative action in the civil service, she said that the Ministry for the Advancement of Women had elaborated a plan of action based on a recommendation issued by the Council of the European Economic Community in 1984. Measures were put in place for five years, or until the specific objective had been achieved, and progress was assessed annually and objectives modified if necessary. Three affirmative action pilot projects currently were under way in the civil service. The statistical data requested could be found in the statistical study on women in the workplace being conducted by the Ministry for the Advancement of Women, and her country's report to the Fourth World Conference on Women provided details on the representation of women in decision-making bodies. Affirmative action in the civil service did not envisage special measures on behalf of highly qualified women because equality of the sexes was guaranteed. The number of women in higher positions had increased steadily in recent years. The survey on the adjustment of working hours would provide information on the obstacles to advancement encountered by women in the public service.

21. With regard to organic links between mainstreaming structures, the Interministerial Committee on Gender Equality was an administrative advisory body which promoted cooperation among the various ministries on mainstreaming issues. The Women's Labour Committee on Work for Women was an advisory body of the Ministry for the Advancement of Women comprising members of non-governmental organizations, trade unions, employers' organizations and the various ministries, with some overlap with the membership of the Interministerial Committee. The National Council of Women of Luxembourg and the Liaison, Discussion, Action Group (LIDIA) were non-profit associations of women's groups. Further details could be found in her country's initial report under the discussion of article 3 (CEDAW/C/LUX/1).

22. The Ministry for the Advancement of Women was the recognized leader on mainstreaming policy. Although its human and financial resources were adequate to meet its current needs, they should be increased in view of the Ministry's expanding activities.

23. She cited a number of examples of efforts by the Government to encourage men to assume a greater role in family life and in the education of their children, including media messages, publications, support for relevant activities of non-governmental organizations and the possible adoption of special measures in the public sector.

24. The Government also had taken steps to promote the recruitment of women by offering training on gender equality issues to appropriate target audiences and disseminating the relevant code of the European Commission relating to employment, remuneration, equality of treatment and evaluation of qualifications by sex. As to measures being taken to introduce parental leave, she noted that the European Union directive on the outline agreement on parental leave established the right of both the father and the mother to three months of parental leave.

Article 5

25. Ms. ECKER (Luxembourg) clarifying the concept of "indecent assault", said that it was a physical action contrary to the ordinary sense of decency. Such assault was punishable when committed with violence or threats on an adult or on persons not in a position to give their consent freely or to put up any resistance. It was punishable if committed without violence or threats on a person under 16 years of age. The definition covered any physical action, sexual violence or touching other than rape. In addition to prison terms, convicted perpetrators could be denied their right to vote and to stand for election.

26. The training police received to deal with violence against women emphasized their primary duty to enforce the law and protect victims. In practice, however, the emphasis was on removing women who were victims of domestic violence and their children from the home rather than on arresting the perpetrator of the violence. Such cases were prosecuted if the victim filed a complaint and followed it through. The courts treated violence against women and spousal violence like all other cases of battery and judges were not particularly sensitized to violence against women. It was planned to provide judges with appropriate training on the subject.

27. The Ministry for the Advancement of Women provided the funding and infrastructure support needed by the Girls' Home project. The Council of State had rejected the proposed pornography bill, and its sponsor planned to modify the bill to take the Council's criticism into account. No study had been made to date of the impact of pornography on young people. Specific penalties were not provided under national legislation for spousal violence.

28. Sentences in cases of violence were based on the degree of intent, the seriousness of the consequences, the relationship between the perpetrator and the victim, the status of the perpetrator or the victim and the specific manner in which the crime was perpetrated.

29. Although in the past, the courts had considered that there was no such thing as rape within marriage, that was no longer the case, pursuant to article 375 of the Penal Code as amended in 1992, and as borne out on appeal to the High Court of Justice in 1994.

Article 6

30. Mrs. MULHEIMS (Luxembourg) noted that The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in

Women for the Purpose of Sexual Exploitation, adopted by a Ministerial Conference of the European Union in April 1997, had been circulated to the Committee. Street prostitution had increased in Luxembourg because prostitutes earned more than in neighbouring countries. She drew attention to a summary of the countries of origin of prostitutes in her country in 1996 which also had been circulated to the Committee. Within the framework of the European Union, her country was a member of Europol, a major network to combat trafficking in women. The question of quotas for the granting of residence permits to non-nationals of European Union member States was a difficult one and her Government would probably provide detailed information on the matter in its next report. Efforts to suppress networks of traffickers in women included measures to enable women illegally resident in Luxembourg to testify under temporary residence permits. Her country would pursue such efforts in collaboration with the European Union and would be chairing a follow-up conference to the Declaration to which she had just referred.

Article 7

31. Ms. ECKER (Luxembourg) said that the judiciary currently comprised 69 men and 69 women, with a predominance of women among its younger members. Women accounted for 73 per cent of her country's lawyers, and men, 64 per cent. Although the proportion of women among young lawyers was increasing, most of them left the Bar after several years.

Article 10

32. Mrs. MULHEIMS (Luxembourg) said that Luxembourg did not offer a full university-level programme. One institution offered an initial year of university studies in the humanities, science and law, while another offered a complete three-year technology programme. Most students received their higher education in various member countries of the European Union. Research on education and equality of opportunity would be carried out in the context of the Plan of Action 2000. Her country's next report would provide sex-specific data on traditional secondary and technical secondary education programmes.

Article 11

33. Ms. ECKER (Luxembourg) said that the statistics requested concerning the economically active population, unemployment, part-time and temporary workers and retirees were in preparation. The definition of indirect discrimination and of the burden of proof required to substantiate claims of such discrimination were contained in a new directive recently adopted by the Council of Ministers of the European Union the guiding principles of which already were applied by the Luxembourg courts.

34. The Ministry for the Advancement of Women, through its policy of mainstreaming, training and employment, had already done a great deal to inform women of their rights with a view to eliminating discrimination against them in the private sector and would continue to do so, inter alia, by disseminating the guidelines of the European Community on equal pay for equal work. She enumerated the circumstances in which private sector workers were granted special leave. As to the difference in the parental leave entitlement for

private and public sector workers, she said that the State had always sought to be a pace-setter and the private sector took longer to catch up. It often was difficult for women to press their claims in negotiations between management and trade unions.

35. The family leave bill was on hold pending further discussion within the European Union of a directive on parental leave, which also covered family leave. Luxembourg would report at a later stage on the reasons for the decline in average hourly salaries between 1993 and 1997.

36. The bill establishing equality representatives applied only to the private sector. She drew attention to the main elements of the bill as described on pages 24 and 25 of document CEDAW/C/LUX/2.

37. There were no specific measures governing handicapped women in the workplace. The Employment Administration provided special programmes for handicapped workers in general. The Government, communes, public entities and the Société nationale des chemins de fer luxembourgeois were required to employ a certain number of handicapped workers, and there were similar guidelines in the private sector. Handicapped workers received the minimum wage, and the Ministry of Labour subsidized sheltered workshops which provided handicapped persons with employment opportunities suited to their abilities and also readied them for employment in the general labour market.

38. The term "migrant" or "immigrant women" was no longer employed in Luxembourg and had been replaced by the terms "foreign women", "female citizens of the European Union" and "female citizens of non-European Union States". Of the total population of Luxembourg, 34.4 per cent were non-nationals, while 91 per cent of all resident foreigners were citizens of the European Union. Foreign women accounted for 49.8 per cent of the foreign population of Luxembourg and 30 per cent of all women resident in the country. A number of measures had been taken at different levels to integrate foreigners, regardless of sex, age or religion, into Luxembourg society.

Article 12

39. Mrs. MULHEIMS (Luxembourg) said that the repeal of the legislation governing abortion was not currently the subject of public debate because no women had yet been charged under the 1976 Act. No information was available on the reasons why women chose to go abroad to procure abortions and any attempt to explain that trend would be pure speculation on her part. The fact that the number of abortions had not increased might be attributed to sex education programmes and to the public-awareness campaign against HIV/AIDS. Pregnancies were most common among women in the 20 to 25 age group. No information was available on the percentage of women who had been infected by the AIDS virus over the previous 10 years or on the number of women doctors in Luxembourg.

40. Of the 308 patients treated for drug addiction during 1996, 67 per cent had been men and 33 per cent women. There were no drug treatment programmes specifically designed for women.

41. Early detection of cervical cancer had led to a noticeable drop in the mortality rate for that type of cancer. The goal of the Ministry of Health was to reduce the rate of deaths from cervical cancer to less than 3 per 100,000 by the year 2002. A national programme for the early detection of breast cancer through regular mammograms had also been launched with the goal of reducing the incidence of breast cancer among women aged 50 to 65 by 25 per cent within 10 years.

42. With regard to the causes of death among women, available figures for 1995 showed that of 1,800 deceased women, 93 had died from breast tumours, 4 from cervical tumours and 172 from accidents.

43. Contraceptives could not be purchased over the counter because each patient needed an individual prescription from a doctor, who was then able to carry out periodic check-ups, including for cervical cancer.

44. With regard to insurance coverage, legislation adopted in 1983 had provided for voluntary insurance for all those who could not otherwise obtain health insurance coverage. The benefits of both compulsory and voluntary insurance also extended to the spouse, children and other members of the household of the principal insured party. The 1992 legislation reforming the health insurance regime maintained the earlier provision that the abandoned wife and children of an insured spouse would continue to enjoy health insurance coverage. While the health insurance scheme reimbursed curative care and certain preventive health care services, coverage did not extend to contraception. No specific data were available on the medical needs of women.

45. On the subject of violence against women, she said that programmes were in place to sensitize health and social service professionals to the problem. The insurance scheme of a woman who was a victim of violence usually bore the cost of medical treatment but reserved the right to recover that cost from the person who had committed the violence.

46. Documentation had already been made available to the Committee describing the public-awareness campaign aimed at increasing participation in the programme for the early detection of breast cancer. The action being taken by the Ministry of Health was in keeping with the World Health Organization's strategy to ensure health for all.

47. Where fines were imposed for abortion, both the party performing the abortion and the pregnant woman were liable to the fine. The law required a woman to consult her gynaecologist, who would determine the danger which pregnancy posed to her health.

48. Her delegation shared the view expressed by one expert on the need for more statistical data and wished to reassure the Committee that the compilation of statistics was one of her Ministry's priorities which she hoped would be reflected in Luxembourg's next periodic report.

Article 13

49. Ms. ECKER (Luxembourg) said that family benefits were provided to help cover the expenses involved in raising children. An allowance was payable in respect of each child. Where the parents lived together the benefit could be paid to either parent. Single mothers received family benefits if the child or children resided with her. No complaints of discriminatory treatment had been brought against the National Family Benefit Fund.

Article 14

50. The Ministry for the Advancement of Women had recently established regional study groups to look into the problems of rural women in Luxembourg.

Article 15

51. From a legal standpoint, even though living in a common-law marriage, the parties to such a union were not spouses but third parties because of the absence of any legal attachment. Questions arising from the break-up of a couple could be legally resolved only within the framework of marriage.

Article 16

52. The period of 300 days before a widow or a divorced woman could remarry corresponded to the maximum presumptive period for the duration of a pregnancy. It had been retained to remove any uncertainty about the paternity of a child born during that period.

53. The filiation of a natural child was determined by the voluntary recognition of the child by its parents or by a legal ruling of filiation resulting from the child's initiative. At the registration of a child, a declaration by the father was sufficient to establish the child's maternity. A similar declaration by the mother was not sufficient, however, to establish paternity. Under current legislation, a blood test which indicated a 99.9 per cent probability of paternity was deemed to be sufficient evidence that conception was the result of sexual relations between the mother and the putative father.

54. Children born out of wedlock had the same rights and responsibilities as children born in wedlock. Certain differences subsisted, however, notably for the exercise of parental authority. That was why the terms "legitimate child" and "natural child" had not yet been abolished. The name of a child could be changed by application to the Government. The application could be made by one or both parents, according to whether parental authority was exercised jointly or by a single parent.

55. Ms. CORTI commended the Government of Luxembourg for its evident commitment to the elimination of discrimination against women and to the implementation of the articles of the Convention. She remained concerned, however, about Luxembourg's reservations to the Convention, particularly to article 7. She also hoped that concrete action would be taken to implement article 6, including the elimination of prostitution. On the question of abortion, each State party

was free to enact its own legislation. Where such legislation did not permit abortion, however, provision must be made to ensure that women had access to means of contraception and that the cost was reimbursed by their health insurance scheme.

56. Ms. GONZALEZ said that she would appreciate more information on violence within the family, which should include statistics on violence against children, both girls and boys. The fact that the Penal Code did not contain any specific provision regarding rape committed by a husband against his wife and that the courts considered that there was no such thing as rape within marriage was very disconcerting, and she suggested that the Government of Luxembourg should bear in mind the Declaration on the Elimination of Violence against Women, adopted by the General Assembly in its resolution 48/104 of 20 December 1993, which classified marital rape as a form of violence against women. Lastly, she requested an explanation of the figures appearing in the left and right columns of the table on the countries of origin of prostitutes, which the representatives of Luxembourg had provided to the Committee.

57. Ms. JAVATE DE DIOS said she hoped that Luxembourg would continue to review its remaining reservations with respect to the Convention with a view to making Luxembourg's laws more consistent with the spirit and substance of the Convention. She commended the efforts that were being made to disseminate the Convention in Luxembourg, since that would have a positive impact on future generations of Luxembourg citizens.

58. The Government of Luxembourg should consider more progressive policies that benefited migrant worker communities, particularly migrant women, and addressed their health, social and economic needs, including their political participation in the mainstream of Luxembourg society.

59. With regard to traffic in persons and prostitution, she hoped that Luxembourg, while holding the Presidency of the Council of Ministers of the European Union, would help implement the European code of conduct for preventing and combating traffic in women. Luxembourg should take the lead in the fair and humane treatment of "trafficked" persons, particularly women, who were victims of sexual exploitation and prostitution syndicates. Like most other European countries, Luxembourg should conduct research and gather information on prostitution or trafficking in persons with a view to taking appropriate measures to combat those phenomena.

60. Mrs. MULHEIMS (Luxembourg) said that the Luxembourg representatives had decided not to provide information on unemployment since the Government of Luxembourg was currently preparing a study of the job market that took account of women in the workforce. She would ensure that the study, which would be available in a month's time, was sent to the Committee. In its efforts to integrate foreign women into Luxembourg society and combat trafficking in persons and prostitution, Luxembourg would take into account all the suggestions that had been made by the Committee's experts.

61. Ms. ECKER (Luxembourg) said that, while formerly the courts had not recognized the existence of rape within marriage, the Penal Code had been amended in 1992 and currently did not allow the rape of a woman by her husband

or, for that matter, the rape of a female cohabitant by her partner. In 1994, the Luxembourg Court of Appeal had declared that a distinction could no longer be made between rape of a woman by a stranger or by her husband. Marital rape was punished in the same way as any other rape.

The meeting rose at 5.35 p.m.